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COORDINATING COMMITTEEMEMORANDUM BY THE UNITED STATES DELEGATIONONDIFFICULTIES EXPERIENCED IN OBTAINING IMPORT CERTIFICATES

(Relating to Agenda Item 4(a) for May 19 meeting of Subcommittee on Export Controls - COCOM Document 3486).

The Export Control Subcommittee last fall reiterated the understanding expressed at the previous Spring meeting that Import Certificates and Delivery Verifications should be issued only for embargo commodities, i.e., commodities on the Munitions and Atomic Energy Lists and International List I.

In the months following the August 15 announcement of the list revisions, the United States began receiving applications covering Embargo List commodities which contained statements that the importer's government had refused issuance of an Import Certificate.

Occasionally, an application would be accompanied by a form letter the importer had received from his government stating that an Import Certificate could not be issued for the commodity in question. Where it was clear that an inadequate commodity description was not the cause of the refusal, the United States found that it could successfully resolve the matter by direct communication with the importing government.

However, the United States has found that most instances involving failure of the importer to obtain an Import Certificate are caused by the importer using too general a description of the commodity when he applies for an Import Certificate. The issuing government, being unable to determine that the commodity is covered by the Embargo Lists, is unwilling to issue the document.

The United States would be interested to learn if other governments have experienced this difficulty and, if so, the steps they have taken to remedy it.

For its part, the United States generally waives the Import Certificate requirement the first time an exporter claims he cannot obtain an Import Certificate, providing the consignee submits assurances against diversion. In approving the application, however, the United States recommends that the exporter advise his importer to use a more detailed description of the commodity the next time the latter applies for an Import Certificate. The recommended description is usually that found on EFC's Positive List (corresponding to the Embargo List terminology). At the same time, the exporter is advised that an Import Certificate will be required for future cases of this nature.

The above pertains to exports from the United States. Insofar as issuance of United States Import Certificates is concerned, the United States program is as follows:

- (a) Refuses to issue an Import Certificate for a commodity clearly not on the International List.
- (b) Refuses to issue an Import Certificate for a commodity to be imported from a country not cooperating in the IC/DV system. This includes, of course, commodities identified on the International List.

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- (c) Attempts to clarify commodity descriptions on Import Certificate applications which are not sufficiently detailed to permit a determination that the commodity is or is not on the International Lists. This is done by querying the importer or his agent. Where this action fails, the Import Certificate is issued anyway, but the importer is advised (i) to make certain the document is needed or else to return it and (ii) to obtain a better description prior to submitting his next Import Certificate application. Where necessary, the United States will communicate with the exporting government to make certain that the Import Certificate is actually required.

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